



January 19, 2016

HOUSE BILL No. 1298

DIGEST OF HB 1298 (Updated January 19, 2016 12:26 pm - DI 87)

Citations Affected: IC 36-4.

Synopsis: Annexation. Changes contiguity requirements so that property adjacent to only one side of the public highway (instead of both sides) must be: (1) within the annexing municipality's boundaries; or (2) annexed by the same ordinance that annexes the public highway. Reduces the number of required public information meetings from six meetings to three meetings if the annexation is initiated by the landowners. Specifies that a landowner whose property is subject to a valid waiver of remonstrance may not file a remonstrance to the annexation. Establishes deadlines for: (1) the county auditor to forward remonstrance petitions to the annexing municipality; and (2) the annexing municipality to forward documentation regarding valid waivers of the right of remonstrance to the county auditor. Requires a fiscal plan prepared after June 30, 2016, to include in the information provided for each parcel in the annexation territory, the existence of a known waiver of the right to remonstrate on the parcel. Allows municipalities in Kosciusko County to annex noncontiguous territory that is to be used as an industrial park.

Effective: July 1, 2016.

Negele, Truitt

January 12, 2016, read first time and referred to Committee on Government and Regulatory Reform.

January 19, 2016, amended, reported — Do Pass.

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January 19, 2016

Second Regular Session of the 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

HOUSE BILL No. 1298

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 36-4-3-1.5, AS AMENDED BY P.L.228-2015,
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2016]: Sec. 1.5. (a) For purposes of this chapter, territory
4 sought to be annexed may be considered "contiguous" only if at least
5 one-eighth (1/8) of the aggregate external boundaries of the territory
6 coincides with the boundaries of the annexing municipality. In
7 determining if a territory is contiguous, a strip of land less than one
8 hundred fifty (150) feet wide that connects the annexing municipality
9 to the territory is not considered a part of the boundaries of either the
10 municipality or the territory.
11 (b) This subsection applies to an annexation for which an
12 annexation ordinance is adopted after June 30, 2015. A public highway
13 or the rights-of-way of a public highway are contiguous to:
14 (1) the municipality; or
15 (2) property in the unincorporated area adjacent to the public
16 highway or rights-of-way of a public highway;
17 if the public highway or the rights-of-way of a public highway are

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contiguous under subsection (a) and one (1) of the requirements in subsection (c) is satisfied.

(c) A public highway or the rights-of-way of a public highway are not contiguous unless one (1) of the following requirements is met:

(1) The municipality obtains the written consent of the owners of all property:

(A) adjacent to the entire length of the part of the public highway and rights-of-way of the public highway that is being annexed; and

(B) not already within the corporate boundaries of the municipality.

A waiver of the right of remonstrance executed by a property owner or a successor in title of the property owner for sewer services or water services does not constitute written consent for purposes of this subdivision.

(2) All property adjacent to **at least one (1) side of** the entire length of the part of the public highway or rights-of-way of the public highway being annexed is already within the corporate boundaries of the municipality.

(3) All property adjacent to **at least one (1) side of** the entire length of the part of the public highway or rights-of-way of the public highway being annexed is part of the same annexation ordinance in which the public highway or rights-of-way of a public highway are being annexed.

A municipality may not annex a public highway or the rights-of-way of a public highway or annex territory adjacent to the public highway or rights-of-way of a public highway unless the requirements of this section are met.

SECTION 2. IC 36-4-3-1.7, AS ADDED BY P.L.228-2015, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1.7. (a) This section applies only to an annexation ordinance adopted after June 30, 2015. This section does not apply to an annexation under section 5.1 of this chapter.

(b) Not earlier than six (6) months before a municipality introduces an annexation ordinance, the municipality shall conduct an outreach program to inform citizens regarding the proposed annexation. **For an annexation under sections 3 or 4 of this chapter**, the outreach program must conduct at least six (6) public information meetings regarding the proposed annexation. **For an annexation under section 5 of this chapter, the outreach program must conduct at least three (3) public information meetings regarding the proposed annexation.** The public information meetings must provide citizens



with the following information:

(1) Maps showing the proposed boundaries of the annexation territory.

(2) Proposed plans for extension of capital and noncapital services in the annexation territory, including proposed dates of extension.

(3) Expected fiscal impact on taxpayers in the annexation territory, including any increase in taxes and fees.

(c) The municipality shall provide notice of the dates, times, and locations of the outreach program meetings. The municipality shall publish the notice of the meetings under IC 5-3-1, including the date, time, and location of the meetings, except that notice must be published not later than thirty (30) days before the date of each meeting. The municipality shall also send notice to each owner of land within the annexation territory not later than thirty (30) days before the date of the first meeting of the outreach program. The notice to landowners shall be sent by first class mail, certified mail with return receipt requested, or any other means of delivery that includes a return receipt and must include the following information:

(1) The notice must inform the landowner that the municipality is proposing to annex territory that includes the landowner's property.

(2) The municipality is conducting an outreach program for the purpose of providing information to landowners and the public regarding the proposed annexation.

(3) The date, time, and location of the meetings to be conducted under the outreach program.

(d) The notice shall be sent to the address of the landowner as listed on the tax duplicate. If the municipality provides evidence that the notice was sent: ~~by:~~

(1) ~~by~~ certified mail, with return receipt requested or any other means of delivery that includes a return receipt; and

(2) in accordance with this section;

it is not necessary that the landowner accept receipt of the notice. If a remonstrance is filed under section 11 of this chapter, the municipality shall file with the court proof that notices were sent to landowners under this section and proof of publication.

(e) The notice required under this section is in addition to any notice required under sections 2.1 and 2.2 of this chapter.

SECTION 3. IC 36-4-3-4, AS AMENDED BY P.L.207-2014, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 4. (a) The legislative body of a municipality may,



by ordinance, annex any of the following:

- (1) Territory that is contiguous to the municipality.
- (2) Territory that is not contiguous to the municipality and is occupied by a municipally owned or operated as either of the following:
 - (A) An airport or landing field.
 - (B) A wastewater treatment facility or water treatment facility.
 After a municipality annexes territory under this clause, the municipality may annex additional territory to enlarge the territory for the use of the wastewater treatment facility or water treatment facility only if the county legislative body approves that use of the additional territory by ordinance.
- (3) Territory that is not contiguous to the municipality but is found by the legislative body to be occupied by:
 - (A) a municipally owned or regulated sanitary landfill, golf course, or hospital; or
 - (B) a police station of the municipality.

However, if territory annexed under subdivision (2) or (3) ceases to be used for the purpose for which the territory was annexed for at least one (1) year, the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation if the unit that had jurisdiction over the territory still exists. If the unit no longer exists, the territory reverts to the jurisdiction of the unit that would currently have jurisdiction over the territory if the annexation had not occurred. The clerk of the municipality shall notify the offices required to receive notice of a disannexation under section 19 of this chapter when the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation. Territory that is annexed under subdivision (2) (including territory that is enlarged under subdivision (2)(B) for the use of the wastewater treatment facility or water treatment facility) or subdivision (3) may not be considered a part of the municipality for purposes of annexing additional territory.

(b) This subsection applies to municipalities in a county having a population of:

- (1) more than seventy thousand fifty (70,050) but less than seventy-one thousand (71,000);
- (2) more than seventy-five thousand (75,000) but less than seventy-seven thousand (77,000);
- (3) more than seventy-one thousand (71,000) but less than seventy-five thousand (75,000);
- (4) more than forty-seven thousand (47,000) but less than forty-seven thousand five hundred (47,500);



(5) more than thirty-eight thousand five hundred (38,500) but less than thirty-nine thousand (39,000);

(6) more than thirty-seven thousand (37,000) but less than thirty-seven thousand one hundred twenty-five (37,125);

(7) more than thirty-three thousand three hundred (33,300) but less than thirty-three thousand five hundred (33,500);

(8) more than twenty-three thousand three hundred (23,300) but less than twenty-four thousand (24,000);

(9) more than one hundred eighty-five thousand (185,000) but less than two hundred fifty thousand (250,000);

(10) more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000); ~~or~~

(11) more than thirty-two thousand five hundred (32,500) but less than thirty-three thousand (33,000); **or**

(12) more than seventy-seven thousand (77,000) but less than eighty thousand (80,000).

Except as provided in subsection (c), the legislative body of a municipality to which this subsection applies may, by ordinance, annex territory that is not contiguous to the municipality, has its entire area not more than two (2) miles from the municipality's boundary, is to be used for an industrial park containing one (1) or more businesses, and is either owned by the municipality or by a property owner who consents to the annexation. However, if territory annexed under this subsection is not used as an industrial park within five (5) years after the date of passage of the annexation ordinance, or if the territory ceases to be used as an industrial park for at least one (1) year, the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation if the unit that had jurisdiction over the territory still exists. If the unit no longer exists, the territory reverts to the jurisdiction of the unit that would currently have jurisdiction over the territory if the annexation had not occurred. The clerk of the municipality shall notify the offices entitled to receive notice of a disannexation under section 19 of this chapter when the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation.

(c) A city in a county with a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000) may not annex territory as prescribed in subsection (b) until the territory is zoned by the county for industrial purposes.

(d) Notwithstanding any other law, territory that is annexed under subsection (b) or (h) is not considered a part of the municipality for the purposes of:



(1) annexing additional territory:

(A) in a county that is not described by clause (B); or

(B) in a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000), unless the boundaries of the noncontiguous territory become contiguous to the city, as allowed by Indiana law;

(2) expanding the municipality's extraterritorial jurisdictional area; or

(3) changing an assigned service area under IC 8-1-2.3-6(1).

(e) As used in this section, "airport" and "landing field" have the meanings prescribed by IC 8-22-1.

(f) As used in this section, "hospital" has the meaning prescribed by IC 16-18-2-179(b).

(g) An ordinance adopted under this section must assign the territory annexed by the ordinance to at least one (1) municipal legislative body district.

(h) This subsection applies to a city having a population of more than twenty-nine thousand nine hundred (29,900) but less than thirty-one thousand (31,000). The city legislative body may, by ordinance, annex territory that:

(1) is not contiguous to the city;

(2) has its entire area not more than eight (8) miles from the city's boundary;

(3) does not extend more than:

(A) one and one-half (1 1/2) miles to the west;

(B) three-fourths (3/4) mile to the east;

(C) one-half (1/2) mile to the north; or

(D) one-half (1/2) mile to the south;

of an interchange of an interstate highway (as designated by the federal highway authorities) and a state highway (as designated by the state highway authorities); and

(4) is owned by the city or by a property owner that consents to the annexation.

SECTION 4. IC 36-4-3-11, AS AMENDED BY P.L.228-2015, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 11. (a) This subsection applies only to an annexation for which an annexation ordinance was adopted before July 1, 2015. Except as provided in section 5.1(i) of this chapter and subsections (e) and (f), whenever territory is annexed by a municipality under this chapter, the annexation may be appealed by filing with the circuit or superior court of a county in which the annexed territory is



located a written remonstrance signed by:

- (1) at least sixty-five percent (65%) of the owners of land in the annexed territory; or
- (2) the owners of more than seventy-five percent (75%) in assessed valuation of the land in the annexed territory.

The remonstrance must be filed within ninety (90) days after the publication of the annexation ordinance under section 7 of this chapter, must be accompanied by a copy of that ordinance, and must state the reason why the annexation should not take place.

(b) This subsection applies only to an annexation for which an annexation ordinance was adopted before July 1, 2015. On receipt of the remonstrance, the court shall determine whether the remonstrance has the necessary signatures. In determining the total number of landowners of the annexed territory and whether signers of the remonstrance are landowners, the names appearing on the tax duplicate for that territory constitute prima facie evidence of ownership. Only one (1) person having an interest in each single property, as evidenced by the tax duplicate, is considered a landowner for purposes of this section.

(c) This subsection applies only to an annexation for which an annexation ordinance was adopted before July 1, 2015. If the court determines that the remonstrance is sufficient, the court shall fix a time, within sixty (60) days after the court's determination, for a hearing on the remonstrance. Notice of the proceedings, in the form of a summons, shall be served on the annexing municipality. The municipality is the defendant in the cause and shall appear and answer.

(d) This subsection applies only to an annexation for which an annexation ordinance was adopted after June 30, 2015. If the requirements of section 11.3(c) or (after December 31, 2016) section 11.4 of this chapter are met, the annexation may be appealed by filing with the circuit or superior court of a county in which the annexed territory is located:

- (1) the signed remonstrances filed with the county auditor;
- (2) the county auditor's certification under section ~~11.2(g)~~ **11.2(i)** of this chapter;
- (3) the annexation ordinance; and
- (4) a statement of the reason why the annexation should not take place.

The remonstrance must be filed with the court not later than fifteen (15) business days after the date the county auditor files the certificate with the legislative body under section ~~11.2(g)~~ **11.2(i)** of this chapter. After a remonstrance petition is filed with the court, any person who



signed a remonstrance may file with the court a verified, written revocation of the person's opposition to the annexation.

(e) If an annexation is initiated by property owners under section 5.1 of this chapter and all property owners within the area to be annexed petition the municipality to be annexed, a remonstrance to the annexation may not be filed under this section.

(f) This subsection applies only to an annexation for which an annexation ordinance is adopted before July 1, 2015. This subsection applies if:

- (1) the territory to be annexed consists of not more than one hundred (100) parcels; and
- (2) eighty percent (80%) of the boundary of the territory proposed to be annexed is contiguous to the municipality.

An annexation may be appealed by filing with the circuit or superior court of a county in which the annexed territory is located a written remonstrance signed by at least seventy-five percent (75%) of the owners of land in the annexed territory as determined under subsection (b).

SECTION 5. IC 36-4-3-11.2, AS ADDED BY P.L.228-2015, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 11.2. (a) This section applies only to an annexation ordinance adopted after June 30, 2015.

(b) A remonstrance petition may be filed by an owner of real property that:

- (1) is within the area to be annexed; ~~and~~
- (2) was not exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year; ~~and~~
- (3) is not subject to a valid waiver of remonstrance.**

(c) A remonstrance petition must comply with the following in order to be effective:

- (1) Each signature on a remonstrance petition must be dated, and the date of the signature may not be earlier than the date on which the remonstrance forms may be issued by the county auditor under subsection (e)(7).
- (2) Each person who signs a remonstrance petition must indicate the address of the real property owned by the person in the area to be annexed.
- (3) A remonstrance petition must be verified in compliance with subsection (e).

(d) The state board of accounts shall design the remonstrance forms to be used solely in the remonstrance process described in this section. The state board of accounts shall provide the forms to the county



auditor in an electronic format that permits the county auditor to copy or reproduce the forms using:

- (1) the county auditor's own equipment; or
- (2) a commercial copying service.

The annexing municipality shall reimburse the county auditor for the cost of reproducing the remonstrance forms.

(e) The county auditor's office shall issue remonstrance forms accompanied by instructions detailing all of the following requirements:

- (1) The closing date for the remonstrance period.
- (2) Only one (1) person having an interest in each single property as evidenced by the tax duplicate is considered an owner of property and may sign a remonstrance petition. A person is entitled to sign a petition only one (1) time in a remonstrance process, regardless of whether the person owns more than one (1) parcel of real property.
- (3) An individual may not be:
 - (A) compensated for; or
 - (B) reimbursed for expenses incurred in; circulating a remonstrance petition and obtaining signatures.
- (4) The remonstrance petition may be executed in several counterparts, the total of which constitutes the remonstrance petition. An affidavit of the person circulating a counterpart must be attached to the counterpart. The affidavit must state that each signature appearing on the counterpart was affixed in the person's presence and is the true and lawful signature of the signer. The affidavit must be notarized.
- (5) A remonstrance petition that is not executed in counterparts must be verified by the person signing the petition in the manner prescribed by the state board of accounts and notarized.
- (6) A remonstrance petition may be delivered to the county auditor's office in person or by:
 - (A) certified mail, return receipt requested; or
 - (B) any other means of delivery that includes a return receipt.

The remonstrance petition must be postmarked not later than the closing date for the remonstrance period.
- (7) The county auditor's office may not issue a remonstrance petition earlier than the day that notice is published under section 11.1 of this chapter. The county auditor's office shall certify the date of issuance on each remonstrance petition. Any person may pick up additional copies of the remonstrance petition to distribute to other persons.



(8) A person who signs a remonstrance petition may withdraw the person's signature from a remonstrance petition before a remonstrance petition is filed with the county auditor by filing a verified request to remove the person's name from the remonstrance petition. Names may not be added to a remonstrance petition after the remonstrance petition is filed with the county auditor.

(f) The county auditor shall prepare and update weekly a list of the persons who have signed a remonstrance petition. The list must include a statement that the list includes all persons who have signed a remonstrance petition as of a particular date, and does not represent a list of persons certified by the county auditor as actual landowners in the annexation territory using the auditor's current tax records under subsection ~~(g)~~. **(i)**. The county auditor shall post the list in the office of the county auditor. The list is a public record under IC 5-14-3.

(g) Not later than three (3) business days after receiving the remonstrance petition, the county auditor shall submit a copy of the remonstrance petition to the legislative body of the annexing municipality.

(h) Not later than fifteen (15) business days after the legislative body of the annexing municipality receives a copy of the remonstrance petition from the county auditor, the annexing municipality shall provide documentation to the county auditor regarding any valid waiver of the right of remonstrance that exists on the property within the annexation territory.

~~(g)~~ **(i)** Not later than fifteen (15) business days after receiving a remonstrance petition, the documentation regarding any valid waiver of the right of remonstrance from the annexing municipality under subsection (h), if any, the county auditor's office shall make a final determination of the number of owners of real property within the territory to be annexed:

(1) who signed the remonstrance; and

(2) whose property is not subject to a valid waiver of the right of remonstrance;

using the auditor's current tax records as provided in section 2.2 of this chapter. The county auditor shall file a certificate with the legislative body of the annexing municipality certifying the number of property owners not later than five (5) business days after making the determination.

SECTION 6. IC 36-4-3-13, AS AMENDED BY P.L.228-2015, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 13. (a) Except as provided in subsection (e), at the



1 hearing under section 12 of this chapter, the court shall order a
 2 proposed annexation to take place if the following requirements are
 3 met:

4 (1) The requirements of either subsection (b) or (c).

5 (2) The requirements of subsection (d).

6 (3) The requirements of subsection (i).

7 (b) The requirements of this subsection are met if the evidence
 8 establishes the following:

9 (1) That the territory sought to be annexed is contiguous to the
 10 municipality.

11 (2) One (1) of the following:

12 (A) The resident population density of the territory sought to
 13 be annexed is at least three (3) persons per acre.

14 (B) Sixty percent (60%) of the territory is subdivided.

15 (C) The territory is zoned for commercial, business, or
 16 industrial uses.

17 (c) The requirements of this subsection are met if the evidence
 18 establishes one (1) of the following:

19 (1) That the territory sought to be annexed is:

20 (A) contiguous to the municipality as required by section 1.5
 21 of this chapter, except that at least one-fourth (1/4), instead of
 22 one-eighth (1/8), of the aggregate external boundaries of the
 23 territory sought to be annexed must coincide with the
 24 boundaries of the municipality; and

25 (B) needed and can be used by the municipality for its
 26 development in the reasonably near future.

27 (2) This subdivision applies only to an annexation for which an
 28 annexation ordinance is adopted after December 31, 2016. That
 29 the territory sought to be annexed involves an economic
 30 development project and the requirements of section 11.4 of this
 31 chapter are met.

32 (d) The requirements of this subsection are met if the evidence
 33 establishes that the municipality has developed and adopted a written
 34 fiscal plan and has established a definite policy, by resolution of the
 35 legislative body as set forth in section 3.1 of this chapter. The fiscal
 36 plan must show the following:

37 (1) The cost estimates of planned services to be furnished to the
 38 territory to be annexed. The plan must present itemized estimated
 39 costs for each municipal department or agency.

40 (2) The method or methods of financing the planned services. The
 41 plan must explain how specific and detailed expenses will be
 42 funded and must indicate the taxes, grants, and other funding to



1 be used.

2 (3) The plan for the organization and extension of services. The
3 plan must detail the specific services that will be provided and the
4 dates the services will begin.

5 (4) That planned services of a noncapital nature, including police
6 protection, fire protection, street and road maintenance, and other
7 noncapital services normally provided within the corporate
8 boundaries, will be provided to the annexed territory within one
9 (1) year after the effective date of annexation and that they will be
10 provided in a manner equivalent in standard and scope to those
11 noncapital services provided to areas within the corporate
12 boundaries regardless of similar topography, patterns of land use,
13 and population density.

14 (5) That services of a capital improvement nature, including street
15 construction, street lighting, sewer facilities, water facilities, and
16 stormwater drainage facilities, will be provided to the annexed
17 territory within three (3) years after the effective date of the
18 annexation in the same manner as those services are provided to
19 areas within the corporate boundaries, regardless of similar
20 topography, patterns of land use, and population density, and in
21 a manner consistent with federal, state, and local laws,
22 procedures, and planning criteria.

23 (6) This subdivision applies to a fiscal plan prepared after June
24 30, 2015. The estimated effect of the proposed annexation on
25 taxpayers in each of the political subdivisions to which the
26 proposed annexation applies, including the expected tax rates, tax
27 levies, expenditure levels, service levels, and annual debt service
28 payments in those political subdivisions for four (4) years after
29 the effective date of the annexation.

30 (7) This subdivision applies to a fiscal plan prepared after June
31 30, 2015. The estimated effect the proposed annexation will have
32 on municipal finances, specifically how municipal tax revenues
33 will be affected by the annexation for four (4) years after the
34 effective date of the annexation.

35 (8) This subdivision applies to a fiscal plan prepared after June
36 30, 2015. Any estimated effects on political subdivisions in the
37 county that are not part of the annexation and on taxpayers
38 located in those political subdivisions for four (4) years after the
39 effective date of the annexation.

40 (9) This subdivision applies to a fiscal plan prepared after June
41 30, 2015. A list of all parcels of property in the annexation
42 territory and the following information regarding each parcel:



- 1 (A) The name of the owner of the parcel.
- 2 (B) The parcel identification number.
- 3 (C) The most recent assessed value of the parcel.
- 4 **(D) The existence of a known waiver of the right to**
- 5 **remonstrate on the parcel. This clause applies only to a**
- 6 **fiscal plan prepared after June 30, 2016.**
- 7 (e) At the hearing under section 12 of this chapter, the court shall do
- 8 the following:
- 9 (1) Consider evidence on the conditions listed in subdivision (2).
- 10 (2) Order a proposed annexation not to take place if the court
- 11 finds that all of the following conditions that are applicable to the
- 12 annexation exist in the territory proposed to be annexed:
- 13 (A) This clause applies only to an annexation for which an
- 14 annexation ordinance was adopted before July 1, 2015. The
- 15 following services are adequately furnished by a provider
- 16 other than the municipality seeking the annexation:
- 17 (i) Police and fire protection.
- 18 (ii) Street and road maintenance.
- 19 (B) The annexation will have a significant financial impact on
- 20 the residents or owners of land. The court may not consider:
- 21 (i) the personal finances; or
- 22 (ii) the business finances;
- 23 of a resident or owner of land. The personal and business
- 24 financial records of the residents or owners of land, including
- 25 state, federal, and local income tax returns, may not be subject
- 26 to a subpoena or discovery proceedings.
- 27 (C) The annexation is not in the best interests of the owners of
- 28 land in the territory proposed to be annexed as set forth in
- 29 subsection (f).
- 30 (D) This clause applies only to an annexation for which an
- 31 annexation ordinance is adopted before July 1, 2015. One (1)
- 32 of the following opposes the annexation:
- 33 (i) At least sixty-five percent (65%) of the owners of land in
- 34 the territory proposed to be annexed.
- 35 (ii) The owners of more than seventy-five percent (75%) in
- 36 assessed valuation of the land in the territory proposed to be
- 37 annexed.
- 38 Evidence of opposition may be expressed by any owner of land
- 39 in the territory proposed to be annexed.
- 40 (E) This clause applies only to an annexation for which an
- 41 annexation ordinance is adopted after June 30, 2015. One (1)
- 42 of the following opposes the annexation:



(i) At least fifty-one percent (51%) of the owners of land in the territory proposed to be annexed.

(ii) The owners of more than sixty percent (60%) in assessed valuation of the land in the territory proposed to be annexed.

The remonstrance petitions filed with the court under section 11 of this chapter are evidence of the number of owners of land that oppose the annexation, minus any written revocations of remonstrances that are filed with the court under section 11 of this chapter.

(F) This clause applies only to an annexation for which an annexation ordinance is adopted before July 1, 2015. This clause applies only to an annexation in which eighty percent (80%) of the boundary of the territory proposed to be annexed is contiguous to the municipality and the territory consists of not more than one hundred (100) parcels. At least seventy-five percent (75%) of the owners of land in the territory proposed to be annexed oppose the annexation as determined under section 11(b) of this chapter.

(f) The municipality under subsection (e)(2)(C) bears the burden of proving that the annexation is in the best interests of the owners of land in the territory proposed to be annexed. In determining this issue, the court may consider whether the municipality has extended sewer or water services to the entire territory to be annexed:

(1) within the three (3) years preceding the date of the introduction of the annexation ordinance; or

(2) under a contract in lieu of annexation entered into under IC 36-4-3-21.

The court may not consider the provision of water services as a result of an order by the Indiana utility regulatory commission to constitute the provision of water services to the territory to be annexed.

(g) The most recent:

(1) federal decennial census;

(2) federal special census;

(3) special tabulation; or

(4) corrected population count;

shall be used as evidence of resident population density for purposes of subsection (b)(2)(A), but this evidence may be rebutted by other evidence of population density.

(h) A municipality that prepares a fiscal plan after June 30, 2015, must comply with this subsection. A municipality may not amend the fiscal plan after the date that a remonstrance is filed with the court under section 11 of this chapter, unless amendment of the fiscal plan



1 is consented to by at least sixty-five percent (65%) of the persons who
 2 signed the remonstrance petition.

3 (i) The municipality must submit proof that the municipality has
 4 complied with:

5 (A) the outreach program requirements and notice requirements
 6 of section 1.7 of this chapter; and

7 (B) the requirements of section 11.1 of this chapter.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Government and Regulatory Reform, to which was referred House Bill 1298, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 12, delete "This subsection".

Page 1, delete line 13.

Page 1, line 14, delete "4 of this chapter."

Page 2, line 42, delete "two" and insert "**three (3)**".

Page 3, line 1, delete "(2)".

Page 3, between lines 41 and 42, begin a new paragraph and insert:
 "SECTION 3. IC 36-4-3-4, AS AMENDED BY P.L.207-2014,
 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 JULY 1, 2016]: Sec. 4. (a) The legislative body of a municipality may,
 by ordinance, annex any of the following:

(1) Territory that is contiguous to the municipality.

(2) Territory that is not contiguous to the municipality and is
 occupied by a municipally owned or operated as either of the
 following:

(A) An airport or landing field.

(B) A wastewater treatment facility or water treatment facility.
 After a municipality annexes territory under this clause, the
 municipality may annex additional territory to enlarge the
 territory for the use of the wastewater treatment facility or
 water treatment facility only if the county legislative body
 approves that use of the additional territory by ordinance.

(3) Territory that is not contiguous to the municipality but is
 found by the legislative body to be occupied by:

(A) a municipally owned or regulated sanitary landfill, golf
 course, or hospital; or

(B) a police station of the municipality.

However, if territory annexed under subdivision (2) or (3) ceases to be
 used for the purpose for which the territory was annexed for at least
 one (1) year, the territory reverts to the jurisdiction of the unit having
 jurisdiction before the annexation if the unit that had jurisdiction over
 the territory still exists. If the unit no longer exists, the territory reverts
 to the jurisdiction of the unit that would currently have jurisdiction over
 the territory if the annexation had not occurred. The clerk of the
 municipality shall notify the offices required to receive notice of a
 disannexation under section 19 of this chapter when the territory
 reverts to the jurisdiction of the unit having jurisdiction before the



annexation. Territory that is annexed under subdivision (2) (including territory that is enlarged under subdivision (2)(B) for the use of the wastewater treatment facility or water treatment facility) or subdivision (3) may not be considered a part of the municipality for purposes of annexing additional territory.

(b) This subsection applies to municipalities in a county having a population of:

- (1) more than seventy thousand fifty (70,050) but less than seventy-one thousand (71,000);
- (2) more than seventy-five thousand (75,000) but less than seventy-seven thousand (77,000);
- (3) more than seventy-one thousand (71,000) but less than seventy-five thousand (75,000);
- (4) more than forty-seven thousand (47,000) but less than forty-seven thousand five hundred (47,500);
- (5) more than thirty-eight thousand five hundred (38,500) but less than thirty-nine thousand (39,000);
- (6) more than thirty-seven thousand (37,000) but less than thirty-seven thousand one hundred twenty-five (37,125);
- (7) more than thirty-three thousand three hundred (33,300) but less than thirty-three thousand five hundred (33,500);
- (8) more than twenty-three thousand three hundred (23,300) but less than twenty-four thousand (24,000);
- (9) more than one hundred eighty-five thousand (185,000) but less than two hundred fifty thousand (250,000);
- (10) more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000); ~~or~~
- (11) more than thirty-two thousand five hundred (32,500) but less than thirty-three thousand (33,000); **or**
- (12) more than seventy-seven thousand (77,000) but less than eighty thousand (80,000).**

Except as provided in subsection (c), the legislative body of a municipality to which this subsection applies may, by ordinance, annex territory that is not contiguous to the municipality, has its entire area not more than two (2) miles from the municipality's boundary, is to be used for an industrial park containing one (1) or more businesses, and is either owned by the municipality or by a property owner who consents to the annexation. However, if territory annexed under this subsection is not used as an industrial park within five (5) years after the date of passage of the annexation ordinance, or if the territory ceases to be used as an industrial park for at least one (1) year, the territory reverts to the jurisdiction of the unit having jurisdiction before



the annexation if the unit that had jurisdiction over the territory still exists. If the unit no longer exists, the territory reverts to the jurisdiction of the unit that would currently have jurisdiction over the territory if the annexation had not occurred. The clerk of the municipality shall notify the offices entitled to receive notice of a disannexation under section 19 of this chapter when the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation.

(c) A city in a county with a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000) may not annex territory as prescribed in subsection (b) until the territory is zoned by the county for industrial purposes.

(d) Notwithstanding any other law, territory that is annexed under subsection (b) or (h) is not considered a part of the municipality for the purposes of:

(1) annexing additional territory:

(A) in a county that is not described by clause (B); or

(B) in a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000), unless the boundaries of the noncontiguous territory become contiguous to the city, as allowed by Indiana law;

(2) expanding the municipality's extraterritorial jurisdictional area; or

(3) changing an assigned service area under IC 8-1-2.3-6(1).

(e) As used in this section, "airport" and "landing field" have the meanings prescribed by IC 8-22-1.

(f) As used in this section, "hospital" has the meaning prescribed by IC 16-18-2-179(b).

(g) An ordinance adopted under this section must assign the territory annexed by the ordinance to at least one (1) municipal legislative body district.

(h) This subsection applies to a city having a population of more than twenty-nine thousand nine hundred (29,900) but less than thirty-one thousand (31,000). The city legislative body may, by ordinance, annex territory that:

(1) is not contiguous to the city;

(2) has its entire area not more than eight (8) miles from the city's boundary;

(3) does not extend more than:

(A) one and one-half (1 1/2) miles to the west;

(B) three-fourths (3/4) mile to the east;



- (C) one-half (1/2) mile to the north; or
 - (D) one-half (1/2) mile to the south;
- of an interchange of an interstate highway (as designated by the federal highway authorities) and a state highway (as designated by the state highway authorities); and
- (4) is owned by the city or by a property owner that consents to the annexation."

Page 8, after line 4, begin a new paragraph and insert:

"SECTION 6. IC 36-4-3-13, AS AMENDED BY P.L.228-2015, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 13. (a) Except as provided in subsection (e), at the hearing under section 12 of this chapter, the court shall order a proposed annexation to take place if the following requirements are met:

- (1) The requirements of either subsection (b) or (c).
- (2) The requirements of subsection (d).
- (3) The requirements of subsection (i).

(b) The requirements of this subsection are met if the evidence establishes the following:

- (1) That the territory sought to be annexed is contiguous to the municipality.
- (2) One (1) of the following:
 - (A) The resident population density of the territory sought to be annexed is at least three (3) persons per acre.
 - (B) Sixty percent (60%) of the territory is subdivided.
 - (C) The territory is zoned for commercial, business, or industrial uses.

(c) The requirements of this subsection are met if the evidence establishes one (1) of the following:

- (1) That the territory sought to be annexed is:
 - (A) contiguous to the municipality as required by section 1.5 of this chapter, except that at least one-fourth (1/4), instead of one-eighth (1/8), of the aggregate external boundaries of the territory sought to be annexed must coincide with the boundaries of the municipality; and
 - (B) needed and can be used by the municipality for its development in the reasonably near future.
- (2) This subdivision applies only to an annexation for which an annexation ordinance is adopted after December 31, 2016. That the territory sought to be annexed involves an economic development project and the requirements of section 11.4 of this chapter are met.



(d) The requirements of this subsection are met if the evidence establishes that the municipality has developed and adopted a written fiscal plan and has established a definite policy, by resolution of the legislative body as set forth in section 3.1 of this chapter. The fiscal plan must show the following:

- (1) The cost estimates of planned services to be furnished to the territory to be annexed. The plan must present itemized estimated costs for each municipal department or agency.
- (2) The method or methods of financing the planned services. The plan must explain how specific and detailed expenses will be funded and must indicate the taxes, grants, and other funding to be used.
- (3) The plan for the organization and extension of services. The plan must detail the specific services that will be provided and the dates the services will begin.
- (4) That planned services of a noncapital nature, including police protection, fire protection, street and road maintenance, and other noncapital services normally provided within the corporate boundaries, will be provided to the annexed territory within one (1) year after the effective date of annexation and that they will be provided in a manner equivalent in standard and scope to those noncapital services provided to areas within the corporate boundaries regardless of similar topography, patterns of land use, and population density.
- (5) That services of a capital improvement nature, including street construction, street lighting, sewer facilities, water facilities, and stormwater drainage facilities, will be provided to the annexed territory within three (3) years after the effective date of the annexation in the same manner as those services are provided to areas within the corporate boundaries, regardless of similar topography, patterns of land use, and population density, and in a manner consistent with federal, state, and local laws, procedures, and planning criteria.
- (6) This subdivision applies to a fiscal plan prepared after June 30, 2015. The estimated effect of the proposed annexation on taxpayers in each of the political subdivisions to which the proposed annexation applies, including the expected tax rates, tax levies, expenditure levels, service levels, and annual debt service payments in those political subdivisions for four (4) years after the effective date of the annexation.
- (7) This subdivision applies to a fiscal plan prepared after June 30, 2015. The estimated effect the proposed annexation will have



on municipal finances, specifically how municipal tax revenues will be affected by the annexation for four (4) years after the effective date of the annexation.

(8) This subdivision applies to a fiscal plan prepared after June 30, 2015. Any estimated effects on political subdivisions in the county that are not part of the annexation and on taxpayers located in those political subdivisions for four (4) years after the effective date of the annexation.

(9) This subdivision applies to a fiscal plan prepared after June 30, 2015. A list of all parcels of property in the annexation territory and the following information regarding each parcel:

(A) The name of the owner of the parcel.

(B) The parcel identification number.

(C) The most recent assessed value of the parcel.

(D) The existence of a known waiver of the right to remonstrate on the parcel. This clause applies only to a fiscal plan prepared after June 30, 2016.

(e) At the hearing under section 12 of this chapter, the court shall do the following:

(1) Consider evidence on the conditions listed in subdivision (2).

(2) Order a proposed annexation not to take place if the court finds that all of the following conditions that are applicable to the annexation exist in the territory proposed to be annexed:

(A) This clause applies only to an annexation for which an annexation ordinance was adopted before July 1, 2015. The following services are adequately furnished by a provider other than the municipality seeking the annexation:

(i) Police and fire protection.

(ii) Street and road maintenance.

(B) The annexation will have a significant financial impact on the residents or owners of land. The court may not consider:

(i) the personal finances; or

(ii) the business finances;

of a resident or owner of land. The personal and business financial records of the residents or owners of land, including state, federal, and local income tax returns, may not be subject to a subpoena or discovery proceedings.

(C) The annexation is not in the best interests of the owners of land in the territory proposed to be annexed as set forth in subsection (f).

(D) This clause applies only to an annexation for which an annexation ordinance is adopted before July 1, 2015. One (1)



of the following opposes the annexation:

- (i) At least sixty-five percent (65%) of the owners of land in the territory proposed to be annexed.
- (ii) The owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed.

Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed.

(E) This clause applies only to an annexation for which an annexation ordinance is adopted after June 30, 2015. One (1) of the following opposes the annexation:

- (i) At least fifty-one percent (51%) of the owners of land in the territory proposed to be annexed.
- (ii) The owners of more than sixty percent (60%) in assessed valuation of the land in the territory proposed to be annexed.

The remonstrance petitions filed with the court under section 11 of this chapter are evidence of the number of owners of land that oppose the annexation, minus any written revocations of remonstrances that are filed with the court under section 11 of this chapter.

(F) This clause applies only to an annexation for which an annexation ordinance is adopted before July 1, 2015. This clause applies only to an annexation in which eighty percent (80%) of the boundary of the territory proposed to be annexed is contiguous to the municipality and the territory consists of not more than one hundred (100) parcels. At least seventy-five percent (75%) of the owners of land in the territory proposed to be annexed oppose the annexation as determined under section 11(b) of this chapter.

(f) The municipality under subsection (e)(2)(C) bears the burden of proving that the annexation is in the best interests of the owners of land in the territory proposed to be annexed. In determining this issue, the court may consider whether the municipality has extended sewer or water services to the entire territory to be annexed:

- (1) within the three (3) years preceding the date of the introduction of the annexation ordinance; or
- (2) under a contract in lieu of annexation entered into under IC 36-4-3-21.

The court may not consider the provision of water services as a result of an order by the Indiana utility regulatory commission to constitute the provision of water services to the territory to be annexed.

(g) The most recent:



- (1) federal decennial census;
- (2) federal special census;
- (3) special tabulation; or
- (4) corrected population count;

shall be used as evidence of resident population density for purposes of subsection (b)(2)(A), but this evidence may be rebutted by other evidence of population density.

(h) A municipality that prepares a fiscal plan after June 30, 2015, must comply with this subsection. A municipality may not amend the fiscal plan after the date that a remonstrance is filed with the court under section 11 of this chapter, unless amendment of the fiscal plan is consented to by at least sixty-five percent (65%) of the persons who signed the remonstrance petition.

(i) The municipality must submit proof that the municipality has complied with:

- (A) the outreach program requirements and notice requirements of section 1.7 of this chapter; and
- (B) the requirements of section 11.1 of this chapter."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1298 as introduced.)

MAHAN

Committee Vote: yeas 11, nays 0.

